

**Council of the District of Columbia**  
**Committee on Transportation and the Environment**

**Committee Report**

1350 Pennsylvania Avenue, N.W., Washington, DC 20004

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To: Members of the Council of the District of Columbia

From: Mary M. Cheh, Chairperson



Committee on the Transportation and the Environment

Date: November 17, 2022

Subject: B24-1000, the “Battery and Electronic Stewardship Amendment Act of 2022”

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The Committee on Transportation and the Environment, to which B24-1000, the “Battery and Electronic Stewardship Amendment Act of 2022” was referred, reports favorably on the legislation and recommends approval by the Council of the District of Columbia.

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## **STATEMENT OF PURPOSE AND EFFECT**

B24-1000, the “Battery and Electronic Stewardship Amendment Act of 2022” was introduced by Councilmember Cheh on September 19, 2022. The legislation would make important clarifying and technical changes to strengthen both the District’s battery stewardship law and electronic stewardship law.

### **I. Background**

The District’s battery stewardship law was enacted by the Council as part of the Zero Waste Omnibus Amendment Act of 2020 and is the first of its kind in the country. Many consumers do not know how to recycle their batteries. As a result, the vast majority of batteries end up in incinerators or landfills. The Council saw this as a missed opportunity, as most components of batteries are recyclable, and many contain precious natural resources such as steel, manganese, and zinc. Collecting and recycling used batteries reduces the environmental impact of mining these resources. In addition, some types of batteries represent a major safety concern when disposed of in the municipal waste stream. Most batteries contain heavy metals, and lithium ion batteries (common in consumer electronics) can catch fire or even explode, posing a risk to waste management workers. In addition to environmental and safety benefits, the District’s battery stewardship program will likely save money for the District’s government and taxpayers by providing consumers with a manufacturer-funded and convenient way to recycle batteries and ensure that potentially hazardous materials are diverted from disposal facilities.

To that end, the Zero Waste Omnibus Amendment Act of 2020 requires producers of certain batteries and battery-containing products sold in the District to join a battery stewardship organization to collect batteries for recycling according to a plan approved by the Department of Energy and Environment (“DOEE”). The amendments in B24-1000 include important adjustments to strengthen and clarify the battery stewardship law. These changes were requested by DOEE.

Separately, the District’s electronic stewardship law was enacted by the Council as part of the Sustainable Solid Waste Management Amendment Act of 2014. It requires manufacturers of certain electronics sold in the District to register with DOEE each year and collect and recycle or reuse unwanted electronics as part of the eCYCLE DC program. The law also established a goal of diverting at least 80% of the District’s electronic waste through recycling or reuse by 2032.

Recycling electronics not only prevents the landfilling or incineration of potentially hazardous materials, but reduces the environmental impacts, energy demands, and greenhouse gas effects that come from mining and manufacturing the valuable resources that electronic products are often include—precious metals, copper, and engineered plastics.<sup>35</sup>

That law took effect in 2015, and the eCYCLE DC program has been highly regarded since its inception, but certain key improvements are needed to make it even more successful in the future ensure that the District’s diversion goals can be met. B24-1000 makes these necessary changes, which were requested by DOEE.

The amendments in B24-1000, as introduced, were previously enacted through emergency legislation;<sup>1</sup> this legislation makes those amendments permanent.

## **II. Legislative Action**

B24-1000 makes several changes with respect to the District's battery stewardship program. Although the law currently states that the battery stewardship organization must collect and recycle *all* batteries, it also states that only producers of primary and rechargeable batteries and battery-containing products must join a battery stewardship organization. Thus, the bill clarifies that the law applies to primary and rechargeable batteries and thereby eliminates discrepancies around what types of batteries must be recycled. This change is important because Call2Recycle, the District's sole battery stewardship organization, is not able to handle batteries that are heavier or have a higher watt-hour rating than what its producers make. The bill also requires the stewardship organization to develop strategies for collecting batteries in areas and communities with environmental justice challenges.

This legislation also makes several important changes to the District's electronics stewardship program. First, B24-1000 changes the annual registration deadline from December 31<sup>st</sup> to October 1<sup>st</sup> beginning in 2023. This change is important because it ensures DOEE has sufficient time to review registration applications. A manufacturer is out of compliance with the law if it does not have an approved registration on January 1<sup>st</sup>. However, should manufacturers submit registration applications close to the December 31<sup>st</sup> deadline, DOEE likely does not have sufficient time to review the registrations and seek any needed corrections to be able to approve them by January 1<sup>st</sup>. For the past few years, despite DOEE strongly encouraging manufacturers to apply by October 7<sup>th</sup>, DOEE only received about 20% of expected total registrations by that date. The deadline change to October 1<sup>st</sup> will ensure that DOEE has adequate time to review plans and provide feedback to manufacturers, in accordance with the existing statutory timelines for review and plan finalization.

This bill would also enhance the public outreach and awareness requirements for manufacturers hosting weekend electronics collection events to increase public participation and the weight of items collected. These changes are important because outreach and engagement around public services like eCYCLE events are crucial to the long-term success of the program, both to ensure participation from a broad range of residents as well as to maximize the number and weight of electronics diverted from the waste stream.

The Committee print differs from the bill as introduced in several respects. First, the Committee has made several minor technical changes to ensure that the print conforms with the emergency legislation that was enacted earlier this year and that proper deadlines are in place.

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<sup>1</sup> These amendments have been approved by the Council on emergency twice: first, in B24-534, the Battery Stewardship Program Emergency Amendment Act of 2021, and second, in B24-965, the Battery and Electronic Stewardship Emergency Amendment Act of 2022. The temporary version of the second set of emergency measures is undergoing congressional review; once through that review, the Committee anticipates that temporary legislation will expire in the second half of 2023, well after this permanent legislation would go into effect.

Second, the Committee print removes the requirement that electronics recycling event organizers utilize radio and television advertisements for each event. It also provides more flexibility with respect to how and when event organizers must use print mailers to advertise events.

Third, the Committee print restores the option for electronics manufacturers to use R2-certified recyclers to process electronics equipment. This provides manufacturers with more flexibility and brings the District back into alignment with the other states that have electronics stewardship programs.

Finally, the Committee print requires the Department of Public Works (“DPW”) to provide certain data to the Council and the Mayor upon the completion of its curbside composting pilot program, in order to ensure that the Council has access to information on this important program, which will provide free curbside composting services to 10,000 District residents for one year, in anticipation of a larger, District-wide rollout. DPW officially launched this pilot this fall, sending out mailers announcing the program to residents, and will begin accepting applications for the pilot in the new year. The pilot was established in the FY 2023 Local Budget Act, and did not include any requirements that DPW provide data to the Council on program outcomes; this language will ensure that DPW makes publicly available the data it intends to collect on the program, such as on participation rates, contamination rates, costs, and other information critical to planning for a larger rollout following the conclusion of the pilot.

### **CHRONOLOGY OF ACTION**

September 19, 2022	Introduction of B24-1000 by Councilmember Cheh
September 30, 2022	Notice of Intent to Act on B24-1000 is published in the <i>District of Columbia Register</i>
October 3, 2022	Notice of Public Hearing on B24-1000 is filed in the Office of Secretary
October 4, 2022	Referral of B24-1000 to the Committee on Transportation and the Environment
October 7, 2022	Notice of Public Hearing published in the <i>District of Columbia Register</i>
October 27, 2022	Public Hearing on B24-1000 held by the Committee on Transportation and the Environment
November 17, 2022	Consideration and vote on B24-1000 by the Committee on Transportation and the Environment

### **POSITION OF THE EXECUTIVE**

DOEE believes that all the amendments made by B24-1000 to the District's battery and electronic stewardship laws will make the associated stewardship programs more successful in the future, for the reasons outlined in the "Legislative Action" section of this report.

### **RESOLUTIONS BY ADVISORY NEIGHBORHOOD COMMISSIONS**

No Advisory Neighborhood Commission adopted a resolution concerning B24-1000 prior to the close of the hearing record.

### **LIST OF WITNESSES AND HEARING RECORD**

On October 27, 2022, the Committee on Transportation and the Environment held a public hearing on B24-1000, the "Battery and Electronic Stewardship Amendment Act of 2022." The following public witnesses testified at the hearing:

**Roxy Kozyckyj**, Director of State Government & Regional Affairs at AdvaMed, testified on behalf of medical device producers to request that most medical devices be exempted from the District's battery stewardship law.

**Ally Peck**, Senior Manager for Environmental Issues and Sustainability at the Consumer Technology Association, testified to request certain changes to B24-1000. First, Ms. Peck described the public outreach requirements outlined in the bill as overly burdensome and requested more flexibility around outreach, particularly with respect to print mailers and television and radio ads. Ms. Peck also requested that the bill be amended to restore the ability of electronics manufacturers to use R2-certified recyclers to meet the District's requirements for recycling.

In addition, the following public witnesses submitted written testimony:

**Scott Cassel**, Chief Executive Officer of the Product Stewardship Institute, testified in support of B24-1000. Mr. Cassel described his beliefs that the legislation will improve equity and program functioning of the District's battery stewardship, and provide additional authority to the oversight agency to ensure that the stewardship organization appropriately implements the stewardship plan. He also testified that, with respect to the District's electronic stewardship law, the legislation will improve outreach requirements, ensure that outreach efforts are measured, ensure outreach efforts are tailored for underserved communities, and streamline program administration. He believes these changes to be positive.

**Leo Raudys**, Chief Executive Officer of Call2Recycle, Inc., the only registered Battery Stewardship Organization in the District. Mr. Raudys submitted testimony specifically to oppose the AdvaMed testimony requesting an exemption for medical devices from the electronic stewardship law. Mr. Raudys explained that many medical devices are used by consumers in the home, rather than in medical settings, and would need to be recycled at their end of life. He asserted that carve-outs make it difficult to manage and fund safe and responsible battery collection and recycling, and that, if made, such an exemption for medical devices would negatively impact battery recycling and education, outreach, and collection efforts in the District.

## **ANALYSIS OF IMPACT ON EXISTING LAW**

B24-1000 would amend D.C. Code § 8-771.01 *et seq.* and D.C. Code § 8-1041.01 *et seq.* by making clarifying and technical changes to the District's battery and electronic stewardship laws. It also requires DPW to provide data to the Council and the Mayor on its curbside composting pilot program.

## **SUMMARY OF FISCAL IMPACT**

A fiscal impact statement issued by the Chief Financial Officer on November 14<sup>th</sup>, 2022, is attached to this report. The Chief Financial Officer concluded that funds are sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill.

## **SUMMARY OF RACIAL EQUITY IMPACT**

A racial equity impact analysis for Bill 24-1000 was issued by the Council Office of Racial Equity on November 17, 2022, and is attached to this report. Due to the volume of legislation under review by the office at the time of the bill's markup, the racial equity impact analysis issued was limited in its scope and did not definitively conclude what if any effect the bill would have on black, indigenous, or other persons of color in the District. The Council Office of Racial Equity later issued a comprehensive racial equity impact analysis, which can be accessed at <https://www.dcraciaequity.org/reia-database>

## **SECTION-BY-SECTION ANALYSIS**

**Section 1** provides the short title of the legislation as the "Battery and Electronic Stewardship Amendment Act of 2022".

**Section 2** amends D.C. Official Code *passim* by making clarifying and technical changes to the District's battery and electronics stewardship laws.

**Section 3** requires DPW to provide certain data to the Council and to the Mayor within six months of the completion of its curbside composting pilot program.

**Section 4** contains the fiscal impact statement.

**Section 5** provides that the act shall take effect following approval by the mayor, a 30-day period of congressional review, and publication in the District of Columbia Register.

## **COMMITTEE ACTION**

On November 17, 2022, the Committee on Transportation the Environment convened a mark-up on Bill 24-1000, the "Battery and Electronic Stewardship Amendment Act of 2022." Present and voting were Chairperson Cheh and Councilmembers Henderson and Lewis George. Chairperson Cheh gave a description of B24-1000 before opening the floor for comments from the members. Chairperson Cheh then moved for approval of the Committee Print and the Committee

Report of B24-1000. The Committee voted 3-0 to approve the Committee Print and the Committee Report with the members voting as follows:

YES: Cheh, Henderson, Lewis George

NO:

The meeting was adjourned.

#### **ATTACHMENTS**

- (A) Bill 24-1000
- (B) Fiscal Impact Statement
- (C) Racial Equity Impact Analysis
- (D) Legal Sufficiency Determination
- (E) Comparative Print of Bill 24-1000
- (F) Committee Print of Bill 24-1000

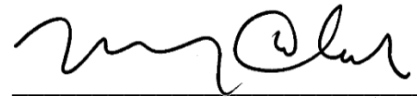
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ATTACHMENT

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Councilmember Mary M. Cheh

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Sustainable Solid Waste Management Amendment Act of 2014 to clarify that the battery producer responsibility law applies only to primary batteries and rechargeable batteries, to require the battery stewardship organization to develop strategies for collecting batteries in areas and communities with waste management challenges related to environmental justice, to establish timelines and procedures for DOEE's consideration of amendments to battery stewardship plans, to provide for amendments to the battery stewardship plan in important situations unrelated to performance goals, to authorize DOEE to revoke the registration of an organization that fails to implement a material provision of an approved battery stewardship plan, to change the deadline for battery stewardship plan submission, to change the deadline for the first annual report and effective date of the battery disposal ban, to change the deadline for manufacturers to submit electronic stewardship registration applications from December 31 to October 1 starting in 2023, to enhance the requirements for representative organizations related to public outreach and awareness, to require partnerships to submit a single application to streamline registration fee processing, to exempt manufacturers from certain responsibilities if they have sold less than 100 units of covered electronic equipment in the previous year, and to make technical corrections and minor clarifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Battery and Electronic Stewardship Amendment Act of 2022".

Sec. 2. Subtitle D of Title I of the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code § 8-771.01 *et seq.*), is amended as follows:

(a) Section 128 (D.C. Official Code § 8-771.01) is amended as follows:

(1) Paragraph (2)(B) is amended by striking the phrase "used are" and inserting the phrase "used, at the time of sale, are" in its place.

(2) Paragraph (5) is amended by striking the phrase “weight of batteries” and inserting the phrase “weight of primary and rechargeable batteries collected during a calendar year by the average annual weight of primary and rechargeable batteries” in its place.

(3) Paragraph (11) is amended as follows:

(A) Subparagraph (B) is amended to read as follows:

“(B) If there is no person to which subparagraph (A) of this paragraph applies or if no contact information for the person is available, the owner or licensee of a brand under which a covered battery or covered battery-containing product is sold, offered for sale, or distributed for sale in the District, whether or not the trademark is registered; or”.

(B) Subparagraph (C) is amended to read as follows:

“(C) If there is no person to which subparagraph (A) or (B) of this paragraph applies or if no contact information for the person is available, a person that imports the covered battery or covered battery-containing product into the United States for sale or distribution for sale in the District.”.

(b) Section 129 (D.C. Official Code § 8-771.02) is amended as follows:

(1) Subsection (a)(2) is amended to read as follows:

“(2) As part of a battery stewardship organization, implement a battery collection program as set forth in an approved battery stewardship plan that provides for collection of all primary and rechargeable batteries on a free, regular, convenient, and accessible basis. At the time of collection, there shall be no cost to consumers, retailers, or the District.”

(2) Subsection (b) is amended by striking the phrase "On or before January 1, 2022" and inserting the phrase “On or before January 1, 2023” in its place.

(3) Subsection (c) is amended by striking the phrase “This chapter shall not apply to” and inserting the phrase “A producer shall not be subject to the requirements in subsection (a) if the producer sells or offers for sale in the District only” in its place.

(c) Section 130 (D.C. Official Code § 8-771.03) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (3) is amended to read as follows:

“(3) Economically and technically feasible performance goals for each of the first 3 years of implementation of the battery stewardship plan that are based on the estimated total weight of primary and rechargeable batteries that have been sold in the District in the previous 3 calendar years by the producers participating in the battery stewardship plan;”

(B) Paragraph (4) is amended as follows:

(i) The existing text is designated as subparagraph (A).

(ii) Newly designated subparagraph (A) is amended by striking the phrase “collection of batteries” and inserting the phrase “collection of primary and rechargeable batteries” in its place.

(iii) A new subparagraph (B) is added to read as follows:

“(B) A description of how the battery stewardship organization will develop strategies, in consultation with DOEE and other relevant parties, for collecting primary and rechargeable batteries in areas and communities that face environmental justice challenges associated with waste management.”.

(C) Paragraph (7) is amended by striking the phrase “all batteries” and inserting the phrase “all primary and rechargeable batteries” in its place.

(2) Subsection (b)(1) is amended as follows:

84 (A) Subparagraph (A) is amended to read as follows:

85 “(A) Within 120 days after receipt of a proposed battery stewardship plan  
86 or a proposed amendment to a plan, DOEE shall determine whether the plan or amendment  
87 complies with the requirements of this section. DOEE shall notify the applicant of the plan or  
88 amendment approval or rejection in writing. If DOEE rejects a proposed plan or amendment,  
89 DOEE shall include the reasons for rejecting the plan or amendment.”.

90 (B) Subparagraph (B) is amended to read as follows:

91 “(B) An applicant whose plan or amendment to a plan is rejected by  
92 DOEE shall submit a revised plan or amendment within 45 days after receiving the notice of  
93 rejection. DOEE shall review the revised plan or amendment, issue an order approving or  
94 disapproving the revised plan or amendment, and notify the applicant of the decision within 45  
95 days after receipt of the revised plan or amendment. An applicant whose revised plan or  
96 amendment is rejected by DOEE may appeal the decision to the Office of Administrative  
97 Hearings, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act  
98 of 1985, effective July 16, 1985 (Law 6-42; D.C. Code § 2-1801.01 *et seq.*).”.

99 (3) A new subsection (b-1) is added to read as follows:

100 “(b-1) Either the battery stewardship organization or DOEE may propose an amendment  
101 to a battery stewardship plan to improve program functioning or if a change in District law or  
102 regulation necessitates a revision in the plan.”.

103 (4) Subsection (d)(3) is amended to read as follows:

104 “(3) Provide for the acceptance of up to 100 batteries per visit, and accept all  
105 primary and rechargeable batteries regardless of type or brand.”

106 (d) Section 131 (D.C. Official Code § 8-771.04) is amended as follows:

(1) Subsection (b)(3) is amended by striking the phrase “subsection (b)” and inserting the phrase “subsection (a)” in its place.

(2) A new subsection (c) is added to read as follows:

“(c) DOEE may revoke the registration of a battery stewardship organization that fails to implement a material provision of an approved battery stewardship plan. If a registration is revoked by DOEE, a battery stewardship organization may appeal the revocation to the Office of Administrative Hearings, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective July 16, 1985 (Law 6-42; D.C. Code § 2-1801.01 *et seq.*).”

(e) Section 132 (D.C. Official Code § 8-771.05) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) The lead-in text is amended by striking the phrase: “On or before June 1, 2023,” and inserting the phrase “On or before June 1, 2024” in its place.

(B) Paragraph (3) is amended by striking the word “batteries” both times it appears and inserting the phrase “primary and rechargeable batteries” in its place.

(f) Section 137 (D.C. Official Code § 8-771.09) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “dispose of batteries” and inserting the phrase “dispose of primary or rechargeable batteries” in its place.

(2) Subsection (b) is amended to read as follows:

“(b) Beginning August 1, 2023, no person in the District shall knowingly dispose of primary or rechargeable batteries in the District except through battery recycling programs or other methods approved by the Mayor.”.

Sec. 3. Subtitle B of Title I of the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code § 8-1041.01 *et seq.*), is amended as follows:

(a) Section 117 (D.C. Official Code § 8-1041.03) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) The lead-in language is amended by striking the phrase “By December 31, 2016, and annually thereafter” and inserting the phrase “By October 1, 2023, and annually thereafter” in its place.

(B) Paragraph (3) is amended as follows:

(i) Subparagraph (A) is amended by striking the word “brands” and inserting the phrase “brands and types” in its place.

(ii) Subparagraph (D) is amended by striking the phrase “and recycled”.

(iii) A new subparagraph (D-1) is added to read as follows:

“(D-1) The total weight of covered electronic equipment recycled, and the total weight of covered electronic equipment reused, through the manufacturer’s electronics recycling program in the previous calendar year;”.

(C) Paragraph (9)(B) is amended to read as follows:

“(B) A report on public outreach and awareness activities that includes:

“(i) A description of the applicant’s public outreach and awareness activities in the previous year, including a description of the general outreach and awareness undertaken; the outreach undertaken for specific collection sites and events; the numbers of individuals, small nonprofits, and small businesses that brought waste to each collection site or

event; the weight of covered electronic equipment collected at each site or event by category of covered entity; the results of surveys about how individuals, small nonprofits, and small businesses learned of each site or event; and factors that may have positively or negatively affected collection participation;

“(ii) An assessment of how to increase participation based on surveys or research on how to effectively reach individuals, small nonprofits, and small businesses in the District, including underserved populations and areas of the District with low event participation; and

“(iii) A description of outreach and awareness activities that will be undertaken to maximize the amount of covered electronic equipment collected, which shall include, at a minimum, unless waived by the Mayor in writing: content on the representative organization’s website; advertisements in local online and print newspapers, including those serving underserved populations, on at least a quarterly basis; social media posts before each event and targeted advertisements at the beginning of each quarter; quarterly mailers to residents, small nonprofits, and small businesses in the vicinity of each collection event; public service announcements or other radio and television ads; and signage at each event clearly showing the purpose of the event;”.

(2) Subsection (c) is amended by striking the phrase “A partnership established to meet the total minimum collection shares of its member manufacturers under section 119(a)(2) may, and a representative organization established to provide convenient collection service to District residents under section 119(a)(3) shall, submit” and inserting the phrase “A partnership established to meet the total minimum collection shares of its member manufacturers under

section 119(a)(2) and a representative organization established to provide convenient collection service to District residents under section 119(a)(3) shall submit” in its place.

(3) Subsection (e) is amended by striking the phrase “modification or renewal” and inserting the word “modification” in its place.

(b) Section 119 (D.C. Official Code § 8-1041.05) is amended as follows:

(1) Subsection (a)(3)(B) is amended to read as follows:

“(B) Effective public outreach and awareness activities to ensure that District residents, small nonprofits, and small businesses are aware of the availability and location of collection sites and events; and”

(2) Subsection (b)(1)(D) is amended by striking the phrase “electronic equipment” and inserting the phrase “covered electronic equipment” in its place.

(3) Subsection (d) is amended to read as follows:

“(d) Beginning January 1, 2017, a manufacturer shall accept for recycling or reuse, on a one-to-one basis with the purchase in the District of any brand of the same type of covered electronic equipment, covered electronic equipment that is offered for return to the manufacturer by a person in the District.”

(4) A new subsection (g) is added to read as follows:

“(g) A manufacturer that sold less than 100 units of covered electronic equipment in the District in the previous calendar year shall be exempt from the requirements of this section.”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).



196           Sec. 5. Effective date.

197           This act shall take effect following approval by the Mayor (or in the event of veto by the  
198 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
199 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
200 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
201 Columbia Register.

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ATTACHMENT

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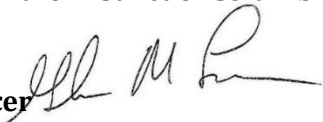
Government of the District of Columbia  
Office of the Chief Financial Officer



Glen Lee  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Glen Lee  
Chief Financial Officer 

**DATE:** November 14, 2022

**SUBJECT:** Fiscal Impact Statement – Battery and Electronic Stewardship  
Amendment Act of 2022

**REFERENCE:** Bill 24-1000, Draft Committee Print as provided to the Office of  
Revenue Analysis on November 3, 2022

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**Conclusion**

Funds are sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill.

**Background**

The Department of Energy and Environment (DOEE) manages several product stewardship programs. Two of those programs are the battery stewardship and electronic waste programs. The battery stewardship program prohibits the disposal of covered batteries in the District and requires registered battery producers to become a member of a battery stewardship organization that collects and recycles covered batteries according to an approved battery stewardship plan.<sup>1</sup> The electronic waste program prohibits manufacturers of covered electronic devices from selling covered equipment in the District unless they register with the District and commit to recycling old electronic equipment either independently, through a partnership, or through a representative organization.<sup>2</sup>

The bill makes technical, clarifying, and operational changes to the battery stewardship program. The bill updates several definitions, including clarifying that the batteries subject to regulation in the

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<sup>1</sup> Zero Waste Omnibus Amendment Act of 2020, effective March 16, 2021 (D.C. Law 23-211; D.C. Official Code § 8-771.01 et seq.).

<sup>2</sup> Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code § 8-1041.01 et seq.).

program are primary and rechargeable batteries. The bill requires battery stewardship plans to include strategies for collecting primary and rechargeable batteries in communities facing environmental justice challenges. The bill also authorizes participants in a stewardship plan to amend the plan to accommodate changes to the law or improvements to the plan's function. DOEE should review, approve, and reject plan amendments in the same way the agency does these activities for initial plan submissions. The bill authorizes DOEE to revoke the registration of a battery stewardship organization if it fails to implement a material provision of a plan. The bill delays three deadlines established under the battery stewardship program. First, the bill delays from January 1, 2022 to January 1, 2023 the deadline for a battery stewardship organization to submit a battery stewardship plan to DOEE for review. Second, the bill delays from June 1, 2023 to June 1, 2024 the deadline for a battery stewardship organization to submit its first annual report to DOEE. Third, the bill delays from January 1, 2023 to August 1, 2023 the date the ban on the disposal of primary and rechargeable batteries applies to individuals in the District. The ban for producers of these batteries went into effect on January 1, 2022.

Electronic equipment manufacturers and representative organizations were required to file an annual registration, beginning December 31, 2016, with their plans for collecting and recycling electronic equipment based on the weight of covered equipment sold in the District. The bill delays this annual registration requirement to December 31, 2022, October 1, 2023, and each October 1 annually thereafter. The bill also allows a manufacturer or representative organization to account for the reuse of electronic equipment, the weight which must be included along with the weight of equipment recycled in the annual report accompanying the manufacturer's or representative organization's registration. The bill enhances the annual report disclosure requirements for representative organizations to conduct public outreach and awareness activities. The bill requires a partnership organization to file a single registration application, like a representative organization, where members of a partnership now have the option to register independently of each other. Lastly, the bill exempts a manufacturer that sells less than 100 units of covered electronic equipment from complying with the electronic waste program's registration, collection, recycling, and reuse requirements.

The bill's changes to both the battery stewardship and electronic waste programs are currently in effect through emergency legislation.<sup>3</sup>

The bill also requires the Department of Public Works (DPW) to provide, within six months of completing the curbside composting pilot program, data on the cost of the pilot program, quarterly participation rates, and quarterly contamination rates.

### **Financial Plan Impact**

Funds are sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill. DOEE can absorb the costs associated with any of the bill's changes to the battery stewardship and electronic waste programs that are new or align with DOEE's current implementation of those programs. The bill also delays some of the programs' implementation, registration, and reporting deadlines and there are no budgetary costs associated with these changes.

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<sup>3</sup> Battery and Electronic Stewardship Emergency Amendment Act of 2022, enacted October 17, 2022 (D.C. Act 24-559; 69 DCR 12639).

The Honorable Phil Mendelson

FIS: Bill 24-1000, "Battery and Electronic Stewardship Amendment Act of 2022," Draft Committee Print as provided to the Office of Revenue Analysis on November 3, 2022

DPW can absorb the costs associated with providing information to the Mayor and the Council on the agency's curbside composting pilot program.

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ATTACHMENT

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November 17, 2022

**The racial equity impact assessments for the following bills are not included in this document.**

### **Human Services**

**B24-0857**, the “Preserving Our Kids’ Equity Through Trusts (POKETT) Amendment Act of 2022”

### **Government Operations and Facilities**

**B24-0446**, the “Attorney General Civil Rights Enforcement Clarification Amendment Act of 2022”

**B24-0129**, the “Inspector General Enhancement Amendment Act of 2022”

### **Business and Economic Development**

**B24-0466**, the “St Elizabeths East Parcel 13 Surplus Declaration and Disposition Approval Act of 2021”

**B24-0953**, the “Malcolm X Surplus Declaration and Disposition Approval Act of 2022”

**B24-0997**, the “Hill East Phase II Bundle 1 Surplus Declaration and Disposition Approval Act of 2022”

**B24-1033**, the “Hill East Phase II Bundle 2 Surplus Declaration and Disposition Approval Act of 2022”

**B24-0712**, the “Domestic Worker Employment Rights Amendment Act of 2022”

### **Transportation and Environment**

**B24-0932**, the “Wastewater System Regulation Amendment Act of 2022”

**B24-1000**, the “Battery Stewardship Program Amendment Act of 2022”

**B24-1029**, the “Automated Traffic Enforcement System Revenue Designation Amendment Act of 2022”

We, the Council Office of Racial Equity, commit to publishing the completed racial equity impact assessments (REIAs) by the bills’ final readings. Like all completed REIAs, the published assessments will be available on [our website](#) as part of [our REIA database](#).

*Until that time, this document will serve as a placeholder to satisfy the [Council Period 24 Rules](#) and not block the bills’ consideration in the legislative process.*

Given the volume of legislation being moved, we require more time to conduct our assessment of how these bills will impact Black residents, Indigenous residents, and other residents of color in the District of Columbia.

Once we have had adequate time with the bills named above to apply the diligence and rigor that a racial equity impact assessment requires, we will publish our completed REIAs.

Namita Mody  
Director, Council Office of Racial Equity

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ATTACHMENT

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OFFICE OF THE GENERAL COUNSEL

Council of the District of Columbia  
1350 Pennsylvania Avenue NW, Suite 4  
Washington, DC 20004  
(202) 724-8026

**MEMORANDUM**

**TO: Councilmember Mary Cheh**

**FROM: Nicole L. Streeter, General Counsel *NLS***

**DATE: November 15, 2022**

**RE: Legal sufficiency determination for Bill 24-1000, the  
Battery and Electronic Stewardship Amendment  
Act of 2022**

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The measure is legally and technically sufficient for Council consideration.

The bill would amend the Sustainable Solid Waste Management Amendment Act of 2014 to:

- Clarify that the battery producer responsibility law applies only to primary batteries and rechargeable batteries;
- Require the battery stewardship organization to develop strategies for collecting batteries in areas and communities with waste management challenges related to environmental justice;
- Establish timelines and procedures for the Department of Energy and Environment's ("DOEE") consideration of amendments to battery stewardship plans;
- Provide for amendments to the battery stewardship plan in important situations unrelated to performance goals;
- Authorize DOEE to revoke the registration of an organization that fails to implement a material provision of an approved battery stewardship plan;
- Change the deadline for battery stewardship plan submission;
- Change the deadline for the first annual report and effective date of the battery disposal ban;
- Change the deadline for manufacturers to submit electronic stewardship registration applications from December 31 to October 1 starting in 2023;
- Enhance the requirements for representative organizations related to public outreach and awareness;

- Require partnerships to submit a single application to streamline registration fee processing;
- Exempt manufacturers from certain responsibilities if they have sold less than 100 units of covered electronic equipment in the previous year; and
- Make other technical and conforming changes.

The bill would also require the Department of Public Works to issue a report to the Council and Mayor relating to the curbside composting pilot program.

I am available if you have any questions.

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ATTACHMENT

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**B24-1000**  
**Committee on Transportation and the Environment**  
**Comparative Print**  
**November 17, 2022**

Section 2

**§ 8-771.01. Definitions.**

For purposes of this chapter, the term:

(1) "Battery" means a device that consists of one or more electrically connected electrochemical cells and is designed to store and deliver electric energy.

(2) "Battery-containing product" means a product that contains or is packaged with a rechargeable or primary battery. The term "battery-containing product" does not include:

(A) Covered electronic equipment, as that term is defined in [§ 8-1041.01\(4\)](#);

(B) A product in which the only batteries ~~used are~~ **used, at the time of sale, are** supplied by a producer that:

(i) Is a member of a battery stewardship organization that has an approved battery stewardship plan pursuant to [§ 8-771.03\(b\)](#) and is registered in accordance with [§ 8-771.04\(b\)](#); and

(ii) Has provided written certification of that membership to both the producer of the covered battery-containing product and the battery stewardship organization of which the battery producer is a member;

(C) A medical device, as described in 21 U.S.C. § 360c; provided, that the medical device is not designed and marketed for sale or resale principally to consumers for personal use; or

(D) A motor vehicle, part of a motor vehicle, or a component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(3) "Battery stewardship organization" means an organization registered under [§ 8-771.04\(b\)](#).

(4) "Brand" means a trademark, including both a registered and an unregistered trademark, a logo, a name, a symbol, a word, an identifier, or a traceable mark that identifies a covered battery or covered battery-containing product, and identifies the owner or licensee of the brand.

(5) "Collection rate" means a percentage, by weight, that a battery stewardship organization collects that is calculated by dividing the total ~~weight of batteries~~ **weight of primary and**

**rechargeable batteries collected during a calendar year by the average annual weight of primary and rechargeable batteries** that were estimated to have been sold in the District by all producers participating in an approved battery stewardship plan during the previous 3 calendar years.

(6) "Covered battery" means a new or unused primary battery or rechargeable battery.

(7) "Covered battery-containing product" means a new or unused battery-containing product.

(8) "DOEE" means the District Department of Energy and Environment.

(9) "Performance goal" means a metric proposed in a battery stewardship plan to measure, on an annual basis, the performance of that plan, taking into consideration technical feasibility and economic practicality, in achieving continuous, meaningful progress to improve the rate of battery recycling in the District. The term "performance goal" includes target collection rates, target recycling efficiencies by battery recycling process, and goals for public awareness, convenience, and accessibility.

(10) "Primary battery" means a non-rechargeable battery that weighs 4.4 pounds (2 kilograms) or less, including alkaline, carbon-zinc, and lithium metal batteries.

(11) "Producer" means, with respect to a covered battery or covered battery-containing product that is sold, offered for sale, or distributed for sale in the District:

(A) A person who manufactures a covered battery or covered battery-containing product and sells or offers for sale in the District that covered battery or battery-containing product under the person's own brand;

(B) If there is no person to which subparagraph (A) of this paragraph ~~applies, the applies or if not contact information for the person is available, the~~ owner or licensee of a brand under which a covered battery or covered battery-containing product is sold, offered for sale, or ~~distributed in~~ distributed for sale in the District, whether or not the trademark is registered; or

(C) If there is no person to which subparagraph (A) or (B) of this paragraph ~~applies, a~~ applies or if not contact information for the person is available, a person that imports the covered battery or covered battery-containing product into the United States for sale or ~~distribution in~~ distribution for sale in the District.

(12) "Rechargeable battery" means a battery that contains one or more voltaic or galvanic cells, electrically connected to produce electric energy, designed to be recharged, that weighs less than 11 pounds (5 kilograms) and has a Watt-hour rating of no more than 300 Watt-hours. The term "rechargeable battery" does not include:

(A) A battery that contains electrolyte as a free liquid, or

(B) A battery that employs lead-acid technology, unless that battery is sealed and contains no free liquid electrolyte.

(13) "Recycling" means the series of activities, including separation, collection, and processing, through which materials are recovered or otherwise diverted from the solid waste stream for use as raw materials or in the manufacture of products other than fuel.

#### **§ 8-771.02. Battery collection.**

(a) All producers of covered batteries and covered battery-containing products sold or offered for sale in the District of Columbia, including retail, wholesale, business-to-business, and online sales, shall:

(1) Be a member of a battery stewardship organization pursuant to § 8-771.04; and

(2) As part of a battery stewardship organization, implement a battery collection ~~program that provides for collection of all batteries~~ program as set forth in an approved battery stewardship plan that provides for collection of all primary and rechargeable batteries on a free, regular, convenient, and accessible basis. At the time of collection, there shall be no cost to consumers, retailers, or the District.

(b) ~~On or before January 1, 2022~~ On or before January 1, 2023, a battery stewardship organization shall submit a proposed battery stewardship plan to DOEE for review. A battery stewardship organization shall implement the battery stewardship plan no later than 90 days after the plan is approved.

(c) ~~This chapter shall not apply to~~ A producer shall not be subject to the requirements in subsection (a) if the producer sells or offers for sale in the District only batteries or battery-containing products that were imported into the District before October 1, 2021.

#### **§ 8-771.03. Battery stewardship plan.**

(a) A proposed battery stewardship plan shall include, at a minimum:

(1) A list of producers and brands, including:

(A) All producers participating in the battery stewardship plan and contact information for each of the participating producers;

(B) The brands of batteries and battery-containing products covered by the battery stewardship plan; and

(C) Brands of products meeting the exemption described in [§ 8-771.01\(2\)\(B\)](#) that contain batteries supplied by producers participating in the battery stewardship plan;

(2) An anticipated annual budget for the battery stewardship plan, broken down into administrative, collection, transportation, disposition, and communication costs, along with a description of the financing method used to implement the battery stewardship plan. The budget shall fund, at a minimum, staff responsible for implementing the battery stewardship plan in the District and include funds for fees administered by DOEE. The budget may not include legal fees or costs related to legislative efforts;

(3) Economically and technically feasible performance goals for each of the first 3 years of implementation of the battery stewardship plan that are based on the estimated total weight of ~~batteries that have been sold or offered for sale~~ **of primary and rechargeable batteries that have been sold** in the District in the previous 3 calendar years by the producers participating in the battery stewardship plan;

(4) A description of how the battery stewardship organization will provide for the convenient ~~collection of batteries~~ **collection of primary and rechargeable batteries** from consumers as required by [§ 8-771.02\(a\)](#). At a minimum, the battery stewardship plan shall provide for a minimum of one collection site per 10,000 people in the District, with a reasonable geographic spread of collection sites across all 8 wards, taking into account accessibility to public transit, and an explanation for the geographic spread; except, that DOEE shall not require the collection site minimum in this paragraph to be met in the first year of implementation of the plan if the plan provides a reasonable timetable for achieving that requirement;

**(4A) A description of how the battery stewardship organization will develop strategies, in consultation with DOEE and other relevant parties, for collecting primary and rechargeable batteries in areas and communities that face environmental justice challenges associated with waste management;**

(5) A description of how the battery stewardship organization will arrange for components of the discarded batteries to be recycled to the maximum extent economically and technically feasible, in a manner that is environmentally sound and safe for waste management workers;

(6) A list of all key participants in the battery collection program, including:

(A) The names of the collection sites accepting batteries under the plan, including the address and contact information for each collection site;

(B) The name and contact information of a transporter or contractor collecting batteries from the collection sites; and

(C) The name, address, and contact information of the recycling facilities that process the collected batteries;

(7) A description of the education and outreach that will be used to inform consumers about the battery collection program, which must, at a minimum, notify the public that there is a free collection program for **all batteries all primary and rechargeable batteries** as well as the location of the collection sites and how to access the battery collection program; and

(8) Other information as required by the Mayor through rulemaking.

**~~(b)(1)(A) Within 120 days after receipt of a proposed battery stewardship plan, DOEE shall determine whether the plan complies with the requirements of this section. DOEE shall notify the applicant of the plan approval or rejection in writing. If DOEE rejects a proposed plan, DOEE shall include the reasons for rejecting the plan. Within 120 after receipt of a proposed battery stewardship plan or a proposed amendment to a plan, DOEE shall determine whether the plan or amendment complies with the requirements of this section. DOEE shall notify the applicant of the plan or amendment approval or rejection in writing. If DOEE rejects a proposed plan or amendment, DOEE shall include the reasons for rejecting the plan or amendment.~~**

**~~(B) An applicant whose plan is rejected by DOEE shall submit a revised plan within 45 days after receiving the notice of rejection. DOEE shall review the revised plan, issue an order approving or disapproving the revised plan, and notify the applicant of the decision within 45 days after receipt of the revised plan. An applicant whose revised plan is rejected by DOEE may appeal the decision to the Office of Administrative Hearings, pursuant to [Chapter 18A of Title 2](#). An applicant whose plan or amendment to a plan is rejected by DOEE shall submit a revised plan or amendment within 45 days after receiving the notice of rejection. DOEE shall review the revised plan or amendment, issue an order approving or disapproving the revised plan or amendment, and notify the applicant of the decision within 45 days after receipt of the revised plan or amendment. An applicant whose revised plan or amendment is rejected by DOEE may appeal the decision to the Office of Administrative Hearings, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective July 16, 1985 (Law 6-42; D.C. Code § 2-1801.01 *et seq.*).~~**

(C) In the event of an appeal of an initial plan's disapproval, obligations of the battery stewardship organization and producers under [Chapter 7E of Title 8](#) may be stayed in their entirety until final disposition of the appeal. In the event of an appeal of an amended plan's disapproval, obligations of the battery stewardship organization and producers, including collection and remittance of fees to the battery stewardship organization, under [Chapter 7E of Title 8](#) shall remain in accordance with the previously approved plan until final disposition of the appeal.

(2) DOEE shall post all proposed battery stewardship plans, and any proposed amendments pursuant to subsection (c) of this section or [§ 8-771.05\(b\)](#), on its website for 30 days after the date the application is submitted and provide an opportunity for public review and comment.



**(b-1) Either the battery stewardship organization or DOEE may propose an amendment to a battery stewardship plan to improve program functioning or if a change in District law or regulation necessitates a revision in the plan.**

(c) Every 2 years following approval of the battery stewardship plan, the battery stewardship organization shall submit updated performance goals to DOEE for approval, based on the implementation of the program up until that point and current economic and technical feasibility. DOEE may require a battery stewardship organization to make other revisions to the plan if the performance goals under the battery stewardship plan are not being met after 2 years of plan implementation.

(d) Any battery collection site designated under a plan shall:

(1) Complete a safety tutorial on how to safely manage batteries, to be provided by the battery stewardship organization implementing the stewardship plan;

(2) Prominently display the availability of drop-off at their location; and

**(3) ~~Provide for the acceptance of up to 100 batteries per visit, and accept all batteries regardless of type or brand.~~ Provide for the acceptance of up to 100 batteries per visit, and accept all primary and rechargeable batteries regardless of type or brand.**

#### **§ 8-771.04. Battery stewardship organization.**

(a) A battery stewardship organization shall:

(1) Develop and submit a battery stewardship plan that meets the requirements of [§ 8-771.03](#);

(2) Maintain a public, regularly-updated website that lists all producers and producers' brands covered by the battery stewardship organization's approved battery stewardship plan;

(3) Provide sellers, government agencies, nonprofit organizations, and all collection sites with educational materials describing collection opportunities for batteries under the battery stewardship plan, including any signage required by [§ 8-771.03\(d\)\(2\)](#); and

(4) Cover all costs for battery collection, transportation, processing, education, administration, recycling, and end-of-life handling, with such handling being in accordance with practices approved by DOEE.

(b) Beginning January 1, 2022, and annually thereafter, a battery stewardship organization shall file a registration form with DOEE. The registration form shall require the following information:

- (1) A list of the producers participating in the battery stewardship organization;
- (2) For each participating producer, the name, address, and contact information of a person responsible for ensuring the participating producer's compliance with [this chapter](#);
- (3) A description of how the battery stewardship organization proposes to meet the requirements of ~~subsection (b)~~ **subsection (a)** of this section, including any reasonable requirements for participation in the battery stewardship organization; and
- (4) The name, address, and contact information of a person for a nonmember producer to contact on how to become a member of the battery stewardship organization.

**(c) DOEE may revoke the registration of a battery stewardship organization that fails to implement a material provision of an approved battery stewardship plan. If a registration is revoked by DOEE, a battery stewardship organization may appeal the revocation to the Office of Administrative Hearings, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective July 16, 1985 (Law 6-42; D.C. Code § 2-1801.01 et seq.).**

#### **§ 8-771.05. Annual reporting.**

(a) ~~On or before June 1, 2023~~ **On or before June 1, 2024**, and annually thereafter, a battery stewardship organization shall submit a report to DOEE describing activities carried out under the battery stewardship plan during the previous calendar year. The report shall include, at a minimum:

- (1) Any updated contact information for the battery stewardship organization, all participants in the organization, and a list of the brands of batteries and battery-containing products for which the battery stewardship organization is responsible;
- (2) The weight of the batteries collected by the battery stewardship organization, reported to the extent feasible by:
  - (A) Collection site; and
  - (B) Chemistry type of primary and rechargeable batteries;
- (3) The estimated total sales, by weight, of ~~batteries~~ **primary and rechargeable** batteries and ~~batteries~~ **primary and rechargeable batteries** contained in or with battery-containing products sold in the District by the producer or producers participating in the battery stewardship organization, to the extent feasible for each of the previous 3 calendar years;
- (4) A description of progress made toward the program performance goals under [§ 8-771.03\(a\)\(3\)](#), including:

(A) A summary of how program implementation compared to performance goals;

(B) An explanation of why performance goals were not met, if applicable; and

(C) An evaluation of the effectiveness of methods and processes used to achieve the performance goals and how methods and processes can be improved;

(5) A description of the collection sites, including:

(A) The addresses and contact information, including website links, for all collection sites;

(B) A map indicating the location of all collection sites in the District; and

(C) An assessment of collection convenience and accessibility;

(6) A description of the educational materials that support implementation of the battery stewardship plan, including examples, as well as an evaluation of the success of the education and outreach effort and how it can be improved;

(7) A description of the manner in which the collected batteries were sorted, consolidated, managed, and processed, including:

(A) The manner in which the collected batteries were recycled, including weight and chemistry of material recycled;

(B) What facilities processed the batteries, including a summary of any violations of environmental laws and regulations over the previous 3 years at each facility; and

(C) A discussion of recycling efficiency rates; and

(8) The costs of implementation of the battery stewardship plan, including the costs of collection, recycling, education, and outreach, and an anticipated budget for the next calendar year.

(b) In the event a battery stewardship organization does not meet a performance goal, the battery stewardship organization shall, in coordination with DOEE, amend its battery stewardship plan, following the requirements set forth in [§ 8-771.03](#), to conduct more outreach, provide additional education materials, or improve collection accessibility as needed.

(c) Four years after the date the initial battery stewardship plan is approved, a battery stewardship organization shall hire an independent third party to conduct an assessment of the battery stewardship plan and implementation of the plan. The assessment shall examine the effectiveness of the battery stewardship plan in collecting and recycling batteries and compare the cost-effectiveness of the plan to that of collection plans or programs for batteries in other jurisdictions. The results of the assessment and recommendations to improve the battery

stewardship plan shall be submitted to DOEE as part of the annual report required under subsection (a) of this section.

**§ 8-771.09. Disposal Ban.**

(a) Beginning January 1, 2022, no producer shall ~~dispose of batteries~~ dispose of primary or rechargeable batteries in the District except through battery recycling programs or other methods approved by the Mayor.

(b) ~~Beginning January 1, 2023, no person in the District shall knowingly dispose of batteries in the District except through battery recycling programs or other methods approved by the Mayor.~~ Beginning August 1, 2023, no person in the District shall knowingly dispose of primary or rechargeable batteries in the District except through battery recycling programs or other methods approved by the Mayor.

**§ 8-1041.03. Registration.**

(a) By June 1, 2017, a manufacturer or retailer shall not sell or offer for sale or deliver to a retailer for subsequent sale new covered electronic equipment, unless:

(1) The equipment is labeled with a readily visible brand identifying the manufacturer;  
and

(2) The manufacturer has registered with the Mayor pursuant to subsection (b) of this section; provided, that the Mayor may establish by rule a *de minimis* level of covered electronic equipment sales in the District that shall be exempt from the provisions of this section.

(b) ~~By December 31, 2016, and annually thereafter~~ By December 31, 2022, October 1, 2023, and October 1 annually thereafter, a manufacturer or its partnership or representative organization as provided in subsection (c) of this section shall submit an application for registration with the Mayor that shall include:

(1) The name, address, and contact information of the person responsible for ensuring compliance with this chapter;

(2) The registration fees applicable under § 8-1041.04;

(3) A report disclosing:

(A) A list of the ~~brands~~ brands and types of covered electronic equipment the manufacturer sells in the District;

(B) Annual data of the manufacturer's covered electronic equipment sold in the District during the previous 3 calendar years;

(C) The total weight or an estimate of the total weight of covered electronic equipment sold in the previous calendar year;

(D) The total weight of covered electronic equipment collected ~~and recycled~~ through the manufacturer's electronics recycling program in the previous calendar year;

**(D-1) The total weight of covered electronic equipment recycled, and the total weight of covered electronic equipment reused, through the manufacturer's electronics recycling program in the previous calendar year;**

(E) Compliance with § 8-1041.05; and

(F) The end markets and electronics recyclers utilized by the manufacturer in the previous calendar year;

(4) A description of the manufacturer's electronics recycling program in the District, including details for the collection, handling, disposition, recycling or reuse of collected covered electronic equipment and the location of anticipated recycling facilities and end markets;

(5) A description of convenient methods by which a District resident can return covered electronic equipment, and methods by which the manufacturer will inform District residents and businesses about its electronics recycling program;

(6) If the manufacturer has not attained compliance with § 8-1041.05, a description of how the manufacturer plans to attain compliance;

(7) A signed statement certifying that the manufacturer's collection, handling, and recycling or reuse of covered electronic equipment complies with local state, federal, and international laws and regulations;

(8) A signed statement certifying that vendors who recycle or reuse covered electronic equipment collected under the manufacturer's waste management program have ~~e-Stewards certification~~ **e-Stewards certification or, effective upon the opening of the 2024 program year application period, R2 certification.**

(9) If the applicant is a representative organization established to provide convenient collection service to District residents under subsection 119(a)(3), an implementation plan that includes:

(A) A description of the convenient collection system established by the organization, including the collection sites at which the representative organization will ensure continuous service, and how the organization, through public outreach and other

means, determined where public collection sites would be located to meet the needs of District residents;

**(B) ~~A description of public outreach and awareness activities undertaken to ensure District residents are aware of the availability and location of collection sites and events; A report on public outreach and awareness activities that includes:~~**

**(i) A description of the applicant's public outreach and awareness activities in the previous year, including a description of the general outreach and awareness undertaken; the outreach undertaken for specific collection sites and events; the numbers of individuals, small nonprofits, and small businesses that brought waste to each collection site or event; the weight of covered electronic equipment collected at each site or event by category of covered entity; the results of surveys about how individuals, small nonprofits, and small businesses learned of each site or event; and factors that may have positively or negatively affected collection participation;**

**(ii) An assessment of how to increase participation based on surveys or research on how to effectively reach individuals, small nonprofits, and small businesses in the District, including underserved populations and areas of the District with low event participation; and**

**(iii) A description of outreach and awareness activities that will be undertaken to maximize the amount of covered electronic equipment collected, which shall include: content on the representative organization's website; advertisements in local online and print newspapers, including those serving underserved populations, on at least a quarterly basis; social media posts before each event and targeted advertisements at the beginning of each quarter; mailers to residents, small nonprofits, and small businesses near collection events; and signage at each event clearly showing the purpose of the event, unless the representative organization demonstrates that another outreach method or methods will ensure that covered entities, including underserved populations, are aware of the availability and location of collection sites and events;**

**(C)** The market share percentage of each manufacturer in the representative organization and a description of how the representative organization will allocate responsibility across member manufacturers to ensure compliance with this chapter; and

**(D)** Sufficient information, including financial and operational information, to allow the Mayor to confirm the consistency of the plan with this chapter; and

**(10)** Any other information as may be required by the Mayor by rule.

**(c)** A partnership established to meet the total minimum collection shares of its member manufacturers under § 8-1041.05(a)(2) ~~may, and a representative~~ **or a representative organization** established to provide convenient collection service to District residents under § 8-

1041.05(a)(3) ~~shall, submit~~ **shall submit** a single application for registration including the items listed under subsection (b) of this section on behalf of its member manufacturers; provided, that the application shall also include a list of member manufacturers and their market shares, as well as any other individual manufacturer data, information, or certification required by the Mayor through rulemaking.

(d)(1) The Mayor shall approve or disapprove a registration application and notify the applicant in writing or by electronic mail within 45 days of an individual manufacturer's submission and within 60 days of a partnership or representative organization's submission. If the Mayor disapproves an application, the Mayor shall specify the reasons for disapproval. The Mayor shall approve or disapprove a resubmitted application within 30 days of resubmission.

(2) In determining whether to approve the registration application and implementation plan of a representative organization established to provide convenient collection service to District residents under § 8-1041.05(a)(3), the Mayor shall consider:

(A) The pounds per capita of covered electronics equipment waste generated in the District in the previous calendar year, as estimated using best available data;

(B) The total market share of the representative organization's members and the pounds per capita of covered electronics equipment collected by the representative organization in the previous calendar year;

(C) The total pounds per capita of covered electronics equipment collected by all manufacturers under this chapter in the previous calendar year;

(D) Best practices in similar jurisdictions with pounds per capita electronics recycling rate data;

(E) Whether the convenient collection system outlined in the representative organization's implementation plan is sufficient to provide convenient and equitable collection opportunities to District residents; and

(F) The District's progress toward the goal established in § 8-1041.02.

(e) The Mayor may establish a procedure and timeframe for the ~~modification or renewal~~ **modification** of manufacturer, partnership, and representative organization applications under this section by rule.

(f) A retailer shall not be subject to penalties for selling or offering to sell covered electronic equipment received from a manufacturer whose registration under this section has expired or been revoked if the manufacturer was registered at the time that the retailer took possession of the covered electronic equipment and the sale occurred within 6 months of the expiration or revocation.

**§ 8–1041.05. Manufacturer responsibilities.**

(a) Beginning January 1, 2017, and annually thereafter, a manufacturer shall either:

(1) Collect and recycle or arrange for the collection and recycling or reuse of the manufacturer's minimum collection share of covered electronic equipment as established under subsection (b) of this section;

(2) Join a partnership of manufacturers to jointly collect or arrange for the collection and recycling or reuse of the sum of each member manufacturer's minimum collection share of covered electronic equipment as established under subsection (b) of this section; or

(3) Join a representative organization created by manufacturers to establish a convenient collection service for District residents, small nonprofit organizations, and small businesses that consists of, at a minimum:

(A) One permanent publicly accessible collection site in each ward of the District; provided, that, in a ward where there is no feasible location for a permanent collection facility, a collection event made available on a quarterly basis shall fulfill this requirement;

**~~(B) Public outreach and awareness activities to District residents through the representative organization's website and other means to ensure that District residents are aware of the availability and location of collection sites and events; and~~**  
**Public outreach and awareness activities to ensure that District residents, small nonprofits, and small businesses, including those in underserved communities, are aware of the availability and location of collection sites and events; and**

(C) Acceptance and recycling or arranging for the recycling or reuse of all covered electronic equipment brought to the sites by covered entities free of charge.

(b)(1) A manufacturer's minimum collection share for covered electronic equipment under subsection (a)(1) of this section shall be:

(A) Repealed.

(B) In 2017, 40% of the average annual sales of the manufacturer's covered electronic equipment in the District, reported by weight, during the previous reporting year;

(C) In 2018, 50% of the average annual sales of the manufacturer's covered electronic equipment in the District, reported by weight, during the previous 2 reporting years;



(D) In 2019 and beyond, 80% of the average annual sales of the manufacturer's ~~electronic equipment~~ covered electronic equipment in the District, reported by weight, during the previous 3 reporting years; or

(E) An amount calculated by a formula established by the Mayor through rulemaking; provided, that the sum of all manufacturer minimum collection shares under the formula, if manufacturers required to comply with this chapter met their minimum collection share, shall equal at least 60% of the total weight of covered electronic equipment that the Mayor estimates was generated by District residents and businesses in the previous reporting year.

(2) For the purposes of calculating a manufacturer or partnership's achievement of its minimum collection share as set forth in subsection (b) of this section, the manufacturer or partnership may count the collection of a single item of covered electronic equipment as twice its weight when that item is donated free of charge for reuse to the District's public or charter schools, to public or charter schools in counties adjoining the District, or to any nonprofit organization with a principal mission of assisting low-income children or families. To qualify for this credit, the covered electronic equipment must be no more than 3 years old, in full working condition, and accepted in writing by the recipient as a donation.

(3) The Mayor may grant a one-year waiver, in whole or in part, from the minimum collection standards, where a manufacturer not participating in a partnership or representative organization has demonstrated that the standard could not be met despite best efforts because the manufacturer has substantially increased the amount of covered electronic equipment sold within the District over the 3-year period during which compliance with the minimum collection standard is to be calculated.

[(c)]

~~(d) Beginning January 1, 2017, a manufacturer shall accept, on a one-to-one basis with the purchase of the same type of covered electronic equipment, covered electronic equipment that is offered for return by a person in the District. Beginning January 1, 2017, a manufacturer shall accept for recycling or reuse, on a one-to-one basis with the purchase in the District of the same type of covered electronic equipment, any brand of covered electronic equipment that is offered for return to the manufacturer by a person in the District.~~

(e) Beginning January 1, 2018, a manufacturer or retailer shall provide at the point of sale information on how a person can return purchased covered electronic equipment for recycling.

(f) A manufacturer, partnership, or representative organization shall not be liable for damages arising from information stored on covered electronic equipment collected from the manufacturer's, partnership's, or representative organization's recovery programs that comply with this chapter.

**(g) A manufacturer that sold less than 100 units of covered electronic equipment in the District in the previous calendar year shall be exempt from the requirements of this section.**

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ATTACHMENT

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4  
5 A BILL  
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9 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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12

13 To amend the Sustainable Solid Waste Management Amendment Act of 2014 to clarify that the  
14 battery producer responsibility law applies only to primary batteries and rechargeable  
15 batteries, to require the battery stewardship organization to develop strategies for  
16 collecting batteries in areas and communities with waste management challenges related  
17 to environmental justice, to establish timelines and procedures for the Department of  
18 Energy and Environment’s (“DOEE”) consideration of amendments to battery  
19 stewardship plans, to provide for amendments to the battery stewardship plan in  
20 important situations unrelated to performance goals, to authorize DOEE to revoke the  
21 registration of an organization that fails to implement a material provision of an approved  
22 battery stewardship plan, to change the deadline for battery stewardship plan submission,  
23 to change the deadline for the first annual report and effective date of the battery disposal  
24 ban, to change the deadline for manufacturers to submit electronic stewardship  
25 registration applications from December 31 to October 1 starting in 2023, to enhance the  
26 requirements for representative organizations related to public outreach and awareness, to  
27 require partnerships to submit a single application to streamline registration fee  
28 processing, to exempt manufacturers from certain responsibilities if they have sold less  
29 than 100 units of covered electronic equipment in the previous year, and to make  
30 technical corrections and minor clarifications; to require the Department of Public Works  
31 to provide information on its curbside composting pilot program to the Council and the  
32 Mayor upon the completion of the pilot.  
33

34 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
35 act may be cited as the “Battery and Electronic Stewardship Amendment Act of 2022”.

36 Sec. 2. Title I of the Sustainable Solid Waste Management Amendment Act of 2014,  
37 effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code *passim*), is amended as  
38 follows:

39 (a) Section 128 (D.C. Official Code § 8-771.01) is amended as follows:

40 (1) Paragraph (2)(B) is amended by striking the phrase “used are” and inserting  
41 the phrase “used, at the time of sale, are” in its place.

(2) Paragraph (5) is amended by striking the phrase “weight of batteries” and inserting the phrase “weight of primary and rechargeable batteries collected during a calendar year by the average annual weight of primary and rechargeable batteries” in its place.

(3) Paragraph (11) is amended as follows:

(A) Subparagraph (B) is amended as follows:

(i) Strike the phrase “applies, the” and insert the phrase “applies or if no contact information for the person is available, the” in its place.

(ii) Strike the phrase “distributed in” and insert the phrase “distributed for sale in” in its place.

(B) Subparagraph (C) is amended as follows:

(i) Strike the phrase “applies, a” and insert the phrase “applies or if no contact information for the person is available, a” in its place.

(ii) Strike the phrase “distribution in” and insert the phrase “distribution for sale in” in its place.

(b) Section 129 (D.C. Official Code § 8-771.02) is amended as follows:

(1) Subsection (a)(2) is amended by striking the phrase “program that provides for collection of all batteries” and inserting the phrase “program as set forth in an approved battery stewardship plan that provides for collection of all primary and rechargeable batteries” in its place.

(2) Subsection (b) is amended by striking the phrase "On or before January 1, 2022" and inserting the phrase “On or before January 1, 2023” in its place.

(3) Subsection (c) is amended by striking the phrase “This subtitle shall not apply to” and inserting the phrase “A producer shall not be subject to the requirements in subsection (a) if the producer sells or offers for sale in the District only” in its place.

66 (c) Section 130 (D.C. Official Code § 8-771.03) is amended as follows:

67 (1) Subsection (a) is amended as follows:

68 (A) Paragraph (3) is amended by striking the phrase “of batteries that have  
69 been sold or offered for sale” and inserting the phrase “of primary and rechargeable batteries that  
70 have been sold” in its place”

71 (B) Paragraph (4) is amended by striking the phrase “collection of  
72 batteries” and inserting the phrase “collection of primary and rechargeable batteries” in its place.

73 (C) A new paragraph (4A) is added to read as follows:

74 “(4A) A description of how the battery stewardship organization will develop  
75 strategies, in consultation with DOEE and other relevant parties, for collecting primary and  
76 rechargeable batteries in areas and communities that face environmental justice challenges  
77 associated with waste management;”.

78 (D) Paragraph (7) is amended by striking the phrase “all batteries” and  
79 inserting the phrase “all primary and rechargeable batteries” in its place.

80 (2) Subsection (b)(1) is amended as follows:

81 (A) Subparagraph (A) is amended to read as follows:

82 “(A) Within 120 days after receipt of a proposed battery stewardship plan  
83 or a proposed amendment to a plan, DOEE shall determine whether the plan or amendment  
84 complies with the requirements of this section. DOEE shall notify the applicant of the plan or  
85 amendment approval or rejection in writing. If DOEE rejects a proposed plan or amendment,  
86 DOEE shall include the reasons for rejecting the plan or amendment.”.

87 (B) Subparagraph (B) is amended to read as follows:

88 “(B) An applicant whose plan or amendment to a plan is rejected by  
89 DOEE shall submit a revised plan or amendment within 45 days after receiving the notice of

rejection. DOEE shall review the revised plan or amendment, issue an order approving or disapproving the revised plan or amendment, and notify the applicant of the decision within 45 days after receipt of the revised plan or amendment. An applicant whose revised plan or amendment is rejected by DOEE may appeal the decision to the Office of Administrative Hearings, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective July 16, 1985 (Law 6-42; D.C. Code § 2-1801.01 *et seq.*).”.

(3) A new subsection (b-1) is added to read as follows:

“(b-1) Either the battery stewardship organization or DOEE may propose an amendment to a battery stewardship plan to improve program functioning or if a change in District law or regulation necessitates a revision in the plan.”.

(4) Subsection (d)(3) is amended to read as follows:

“(3) Provide for the acceptance of up to 100 batteries per visit, and accept all primary and rechargeable batteries regardless of type or brand.”.

(d) Section 131 (D.C. Official Code § 8-771.04) is amended as follows:

(1) Subsection (b)(3) is amended by striking the phrase “subsection (b)” and inserting the phrase “subsection (a)” in its place.

(2) A new subsection (c) is added to read as follows:

“(c) DOEE may revoke the registration of a battery stewardship organization that fails to implement a material provision of an approved battery stewardship plan. If a registration is revoked by DOEE, a battery stewardship organization may appeal the revocation to the Office of Administrative Hearings, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective July 16, 1985 (Law 6-42; D.C. Code § 2-1801.01 *et seq.*).”.

(e) Section 132(a) (D.C. Official Code § 8-771.05(a)) is amended as follows:

(1) The lead-in The lead-in language is amended by striking the phrase: “On or before June 1, 2023” and inserting the phrase “On or before June 1, 2024” in its place.

(2) Paragraph (3) is amended by striking the word “batteries” both times it appears and inserting the phrase “primary and rechargeable batteries” in its place.

(f) Section 137 (D.C. Official Code § 8-771.09) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “dispose of batteries” and inserting the phrase “dispose of primary or rechargeable batteries” in its place.

(2) Subsection (b) is amended to read as follows:

“(b) Beginning August 1, 2023, no person in the District shall knowingly dispose of primary or rechargeable batteries in the District except through battery recycling programs or other methods approved by the Mayor.”.

(g) Section 117 (D.C. Official Code § 8-1041.03) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) The lead-in language is amended by striking the phrase “By December 31, 2016, and annually thereafter” and inserting the phrase “By December 31, 2022, October 1, 2023, and October 1 annually thereafter” in its place.

(B) Paragraph (3) is amended as follows:

(i) Subparagraph (A) is amended by striking the word “brands” and inserting the phrase “brands and types” in its place.

(ii) Subparagraph (D) is amended by striking the phrase “and recycled”.

(iii) A new subparagraph (D-i) is added to read as follows:



135 “(D-i) The total weight of covered electronic equipment recycled, and the  
136 total weight of covered electronic equipment reused, through the manufacturer’s electronics  
137 recycling program in the previous calendar year;”.

138 (C) Paragraph (8) is amended by striking the phrase “e-Stewards  
139 certification” and inserting the phrase “e-Stewards certification or, beginning on the opening of  
140 the 2024 program year application period, R2 certification” in its place.

141 (D) Paragraph (9)(B) is amended to read as follows:

142 “(B) A report on public outreach and awareness activities that includes:

143 “(i) A description of the applicant’s public outreach and awareness  
144 activities in the previous year, including a description of the general outreach and awareness  
145 undertaken; the outreach undertaken for specific collection sites and events; the numbers of  
146 individuals, small nonprofits, and small businesses that brought waste to each collection site or  
147 event; the weight of covered electronic equipment collected at each site or event by category of  
148 covered entity; the results of surveys about how individuals, small nonprofits, and small  
149 businesses learned of each site or event; and factors that may have positively or negatively  
150 affected collection participation;

151 “(ii) An assessment of how to increase participation based on  
152 surveys or research on how to effectively reach individuals, small nonprofits, and small  
153 businesses in the District, including underserved populations and areas of the District with low  
154 event participation; and

155 “(iii) A description of outreach and awareness activities that will  
156 be undertaken to maximize the amount of covered electronic equipment collected, which shall  
157 include: content on the representative organization’s website; advertisements in local online and  
158 print newspapers, including those serving underserved populations, on at least a quarterly basis;

social media posts before each event and targeted advertisements at the beginning of each quarter; mailers to residents, small nonprofits, and small businesses near collection events; and signage at each event clearly showing the purpose of the event, unless the representative organization demonstrates that another outreach method will ensure that covered entities, including underserved populations, are aware of the availability and location of collection sites and events;”.

(2) Subsection (c) is amended as follows:

(A) Strike the phrase “may, and a representative” and insert the phrase “or a representative” in its place.

(B) Strike the phrase “shall, submit” and insert the phrase “shall submit” in its place.

(3) Subsection (e) is amended by striking the phrase “modification or renewal” and inserting the word “modification” in its place.

(h) Section 119 (D.C. Official Code § 8-1041.05) is amended as follows:

(1) Subsection (a)(3)(B) is amended to read as follows:

“(B) Public outreach and awareness activities to ensure that District residents, small nonprofits, and small businesses, including those in underserved communities, are aware of the availability and location of collection sites and events; and”.

(2) Subsection (b)(1)(D) is amended by striking the phrase “electronic equipment” and inserting the phrase “covered electronic equipment” in its place.

(3) Subsection (d) is amended to read as follows:

“(d) Beginning January 1, 2017, a manufacturer shall accept for recycling or reuse, on a one-to-one basis with the purchase in the District of the same type of covered electronic

equipment, any brand of covered electronic equipment that is offered for return to the manufacturer by a person in the District.”.

(4) A new subsection (g) is added to read as follows:

“(g) A manufacturer that sold less than 100 units of covered electronic equipment in the District in the previous calendar year shall be exempt from the requirements of this section.”.

Sec. 3. Curbside composting pilot data reporting requirements.

Within 6 months after the completion of the curbside composting pilot approved in the Fiscal Year 2023 budget, the Department of Public Works shall provide information to the Council and the Mayor that includes:

(1) Total cost of the program, and a breakdown of those costs;

(2) Quarterly participation rates; and

(3) Quarterly compost contamination rates.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.